

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Firoiu et al.

Attorney Docket: 2204/A05

Serial No.: 09/578,564

Examiner: None yet assigned

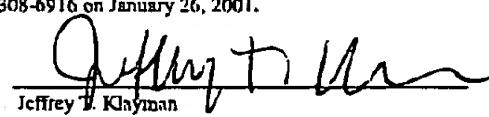
Date Filed: May 25, 2000

Art Unit: 2731

Title: METHOD AND APPARATUS
FOR QUEUE MANAGEMENT

FAX RECEIVED
JAN 26 2001
PETITIONS OFFICE

I hereby certify that this document, along with any other papers referred to as being attached or enclosed, is being transmitted by facsimile to: Frances Hicks, Petitions Examiner, Office of Petitions at (703) 308-6916 on January 26, 2001.



Jeffrey T. Klayman

Frances Hicks
Petitions Examiner
Office of Petitions

REQUEST FOR RECONSIDERATION OF PETITION UNDER RULE 1.47(a)

Dear Ms. Hicks:

Petitioner respectfully requests reconsideration of the petition under Rule 1.47(a) to permit co-inventor Victor Firoiu to make this application for patent on behalf himself and co-inventor Marty Borden, who cannot be reached after diligent effort. Mr. Borden's last known address is 30 Shaker Lane, Littleton, MA 01460.

Enclosed herewith is:

(a) A copy of a letter that was sent to Mr. Borden via certified mail, return receipt requested, on December 15, 2000 and was returned as unclaimed on January 26, 2001;

- (b) A copy of the certified mail receipt indicating mailing on December 15, 2000;
- (c) A copy of the envelope that was returned as unclaimed on January 26, 2001 showing at least three dates of attempted delivery to Mr. Borden; and
- (d) A copy of the return receipt that was returned as unclaimed.

A petition under Rule 1.47(a) to permit co-inventor Victor Firoiu to make this application for patent on behalf himself and co-inventor Marty Borden was mailed on October 10, 2000. The petition was dismissed for failure to demonstrate, with a documented showing, that a diligent effort was made to reach the nonsigning inventor. The dismissal, dated November 30, 2000, indicates that the petition fails to establish whether inventor Borden received the package containing the application papers at the address noted on the transmittal. The dismissal requests documentation showing the manner in which the package was mailed and a copy of a signed registered mail receipt or any other evidence petitioner may have that would substantiate receipt by nonsigning inventor Borden at the address to which the package containing the application papers was mailed and to demonstrate that the package containing the application was not returned as being undeliverable or an indication that inventor Borden is no longer at that address.

After receiving the dismissal of the petition dated November 30, 2000, a copy of the application papers were mailed to Mr. Borden via certified mail, return receipt requested, at Mr. Borden's last known address of 30 Shaker Lane, Littleton, MA 01460. A copy of the letter that was sent to Mr. Borden on December 15, 2000 and a copy of the certified mail receipt indicating mailing on December 15, 2000 are enclosed.

The application papers were returned as unclaimed on January 26, 2001 in the original, unopened envelope. A copy of the envelope that was returned as unclaimed on January 26, 2001 and a copy of the return receipt that was returned as unclaimed on January 26, 2001 are enclosed. Markings on the returned envelope clearly show that no less than three attempts were made to deliver the package to Mr. Borden, specifically on December 16, 2000, January 3, 2001, and January 9, 2001, and that the package was returned because it was unclaimed and not because it was undeliverable or because inventor Borden is no longer at that address.

At this point, petitioner has attempted to contact inventor Borden by regular mail, certified mail, electronic mail, and phone. Petitioner has been given no reason to believe that inventor Borden has moved from his last known address, and yet Mr. Borden has repeatedly failed to respond to petitioner's attempts to reach him.

The dismissal states that, upon receipt of evidence that the package containing the application papers was received by Mr. Borden, it will be concluded that the inactions of nonsigning inventor Borden demonstrate a refusal to join in the application. Petitioner notes, however, that rule 1.47(a) provides two grounds for allowing a co-inventor to make the application for patent on behalf of himself and the nonsigning inventor, specifically that the nonsigning inventor "cannot be found or reached after diligent effort" or that the nonsigning inventor "refuses to join in an application" (Rule 1.47(a) and MPEP 409.03(a)). The facts stated above and in the original petition clearly demonstrate that inventor Borden cannot be found or reached after diligent effort. For this reason, petitioner respectfully requests that the petition

under Rule 1.47(a) to permit co-inventor Victor Firoiu to make this application for patent on behalf himself and co-inventor Marty Borden be granted.

Please charge the \$1,778.00 fee to Deposit Account No. 19-4972. If any additional fees are required for the timely consideration of this application, please charge Deposit Account No. 19-4972.

Please contact the undersigned if there are any further questions or if any additional information is required.

Respectfully submitted:


Jeffrey T. Klayman
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Reg. No. 39,250
(617) 443-9292

143647

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 KEITH J. WOOD
 ALEXANDER J. SHOLENSKI, JR.
NOT ADMITTED IN MASSACHUSETTS

December 15, 2000

**VIA CERTIFIED MAIL
 RETURN RECEIPT REQUESTED**

Marty Borden
 30 Shaker Lane
 Littleton, MA 01460

FAX RECEIVED

IN 26 2001

PETITIONS OFFICE

Re: U.S. Patent Application for **METHOD & APPARATUS FOR QUEUE MANAGEMENT**
 Date Filed: May 25, 2000
 Serial No.: 09/578,564
 Your File: BA0447
 Our File: 2204/A05

Dear Marty:

We have tried unsuccessfully to reach you a number of times regarding this matter, and ask that you contact us at the above telephone number at your earliest convenience.

We have received our return postcard from the U.S. Patent and Trademark Office (USPTO) relating to the above-referenced patent application and enclose for your review a copy of the return post card and a copy of the patent application as filed. We also enclosed a combined Declaration and Power of Attorney and an Assignment.

The USPTO date stamp shows that the application was received on May 25, 2000 and was tentatively assigned serial number 09/578,564.

In order to obtain the earliest possible filing date, the patent application was submitted without an executed Declaration and Power of Attorney. The Declaration is essentially a statement by you that (1) you have read the patent application; (2) you understand the contents of the patent application, including the claims; (3) the patent application correctly describes your invention and the best mode known to you for making and using the invention as of the filing date; (4) you believe that you are an actual inventor of the invention as represented by at least one

Marty Borden
December 15, 2000
Page 2

of the claims; and (5) you acknowledge the duty to disclose all information known to you that may be material to patentability as discussed below. The Power of Attorney enables the named attorneys and agents to prosecute the patent application and transact business with the USPTO as needed to prosecute the patent application. We need to file a fully executed Declaration and Power of Attorney for each inventor in order for the PTO to continue processing the patent application. Therefore, please read the patent application, paying particular attention to the claims. If you are satisfied that you understand the contents of the patent application, the patent application correctly describes your invention and the best mode known to you for making and using the invention, and you believe yourself to be an actual inventor, then please execute the Declaration and Power of Attorney by signing and dating the combined Declaration and Power of Attorney at the space provided. If you have any questions or concerns, then please do not execute the combined Declaration and Power of Attorney, and instead please contact me at the telephone number listed above so we can resolve any issues. Also, please contact me if you believe that someone is incorrectly listed as an inventor or someone has been omitted as an inventor so that we can provide the correct inventorship information to the USPTO.

In addition, we need to record an assignment in the USPTO. The enclosed Assignment conveys your rights in the invention to Nortel Networks Corporation. Please execute the Assignment by signing and dating the Assignment at the space provided. **THERE IS NO NEED TO HAVE THE ASSIGNMENT NOTARIZED.**

The Declaration and Power of Attorney and Assignment must be executed and returned to us no later than

January 15, 2001

so that we may complete the filing requirements of the USPTO without an additional expense for an extension of time. Once we have received the signed documents from you, we will file them with the USPTO, and assuming that no problems are encountered, we can expect to receive a formal filing receipt in due course.

We remind you at this time that an applicant is under a strict duty of candor and good faith. As part of this duty, an applicant is obliged to disclose to the USPTO any and all information of which the applicant is aware that is material to the examination of the application. Such information is considered material where "there is a substantial likelihood that a reasonable examiner would consider it important in deciding whether to allow the application to issue as a patent." 37 C.F.R. §1.56(a).

One means for complying with this duty of disclosure is the so called "Information Disclosure Statement." An information disclosure statement is a listing of patents, publications, or other information, together with an explanation of the relevance of each listed item, together

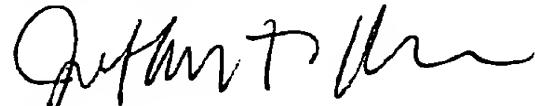
Marty Borden
December 15, 2000
Page 3

with copies and translations of listed items, as appropriate. Ideally, an information disclosure statement should be filed with the application. However, an information disclosure statement can also be filed within the later of three months after the filing date of the application or before the first office action is issued. Of course, if the applicant becomes aware of any relevant art at any point during the prosecution, it is appropriate to file an information disclosure statement at that time as well.

Therefore, if you are aware of any relevant art, including relevant articles, patents, or other publications (or events such as offering for sale or public use of a product embodying the invention more than one year before the effective filing date of the application), please send us copies of these documents (or information concerning these events) at your earliest convenience so that we may comply with the duty of disclosure. For example, you may have uncovered such documents while researching the subject matter to be patented, or conducting novelty or clearance searches. Also, such documents often turn up during the course of prosecution of a related case in a foreign jurisdiction. If there is any question as to whether or not a particular document or event is relevant, it is advisable to disclose that document or event to the USPTO in order to avoid any possible allegation of fraudulent or inequitable conduct, and to strengthen any patent ultimately issuing on the application.

Thank you for your attention to this matter. Please feel free to call me if you have any questions or comments.

Very truly yours,



Jeffrey T. Klayman

JTK/bsb
Enclosures
02204/00A05 139763

2204/A05

U.S. Postal Service
CERTIFIED MAIL RECEIPT
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JTK

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Certified Fee

Return Receipt Fee
(Endorsement Required)Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees

Recipient's Name (Please Print Clearly) (to be completed by mailer)

Marty O'Brien
Street, Apt. No. or PO Box No.
30 Shaker Lane
City, State, ZIP+4

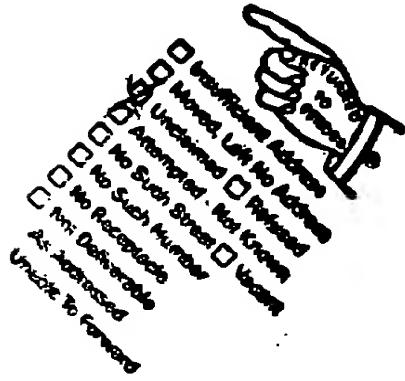
Littleton, MA 01460

See Reverse for Instructions

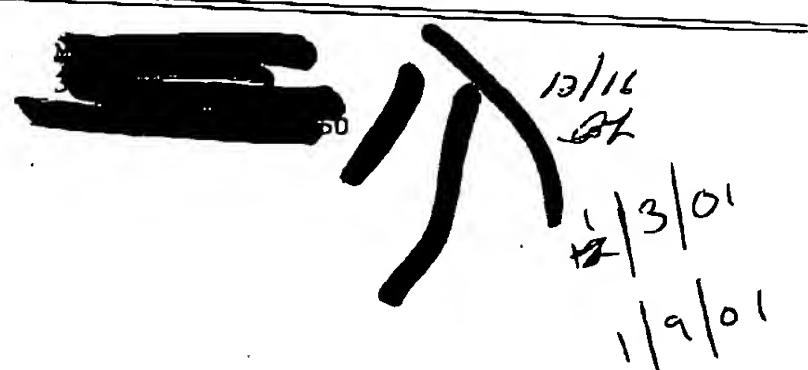
F5 Form 2540, February 2000



7000 0600 0024 5255 0808



BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618


13/16
JL
1/3/01
1/9/01

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Marty Borden
30 Shaker Lane
Littleton, MA 01460

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)	B. Date of Delivery
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C. Signature**X** Agent Addressee**D. Is delivery address different from item 1?** Yes

If YES, enter delivery address below:

 No**3. Service Type**

<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input checked="" type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

4. Restricted Delivery? (Extra Fee) Yes**2. Article Number (Copy from service label)**
7000 0600 0024 5255 0808

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

PTO/SB/07 (08-00)

Approved for use through 10/31/2002. OMB 0851-0031

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on January 26, 2001

Date



Signature

Jeffrey T. Klayman

Typed or printed name of person signing Certificate

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

- 1) Request for Reconsideration of Petition Under Rule 1.47(a);
- 2) Letter to Marty Borden dated December 15, 2000;
- 3) Copy of certified mail receipt;
- 4) copy of returned envelope; and
- 5) copy of unclaimed return receipt.

FAX TRANSMISSION

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To: Frances Hicks
Attn: Office of Petitions

Date: January 26, 2001

Fax #: (703) 308-6916

Pages: 12 (including cover sheet)

From: Jeffrey T. Klayman

JTK

FAX RECEIVED

Our File No. 2204/A05

JAN 26 2001

Re: Serial No.: 09/578,564
Filing Date: May 25, 2000
Title: Method and Apparatus for Queue Management

PETITIONS OFFICE

Comments: Please see attached.

Please notify Bromberg & Sunstein LLP at (617) 443-9292
if there are any problems with this transmission.

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